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*Counsel to Community First Partners, LLC,  
Celsius SPV Investors, LP, and  
Celsius New SPV Investors, LP*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re:	)	
	)	Chapter 11
	)	
CELSIUS NETWORK LLC, <i>et al.</i> , <sup>1</sup>	)	Case No. 22-10964 (MG)
	)	
Debtors.	)	(Jointly Administered)
	)	

**APPELLANTS' DESIGNATION OF THE RECORD  
AND STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL**

Pursuant to Rule 8009 of the Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rule 8009-1, Community First Partners, LLC, Celsius SPV Investors, LP, Celsius New SPV Investors, LP, and CDP Investissements Inc. (collectively, the “Series B Preferred Holders” or

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Celsius Network LLC (2148); Celsius KeyFi LLC (4414); Celsius Lending LLC (8417); Celsius Mining LLC (1387); Celsius Network Inc. (1219); Celsius Network Limited (8554); Celsius Networks Lending LLC (3390); Celsius US Holding LLC (7956); GK8 Ltd. (1209); GK8 USA LLC (9450); and GK8 UK Limited (0893). The location of Debtor Celsius Network LLC’s principal place of business and the Debtors’ service address in these chapter 11 cases is 50 Harrison Street, Suite 209F, Hoboken, New Jersey 07030.

“Appellants”), as beneficial holders, or investment advisors or managers of beneficial holders, of Series B Preferred Shares issued by Celsius Network Limited (“CNL” and, together with its above-captioned affiliates, the “Debtors”), by and through their undersigned counsel, hereby designate the following items to be included in the records on appeal from the United States Bankruptcy Court for the Southern District of New York’s April 18, 2023 *Order Granting the Motion of the Official Committee of Unsecured Creditors (I) for Authority to File a Class Claim Asserting Non-Contract Claims on Behalf of Account Holders or (II) to Appoint a Third-Party Fiduciary to Assert Non-Contract Claims on Behalf of Account Holders* [Dkt. No. 2496] (the “Order”).

**Designation of Items to be Included in the Records on Appeal**

<b>Dkt. No.<sup>2</sup></b>	<b>Filing Date</b>	<b>Document Title</b>
1	07/13/2022	Voluntary Petition for Non-Individuals Filing for Bankruptcy filed by Joshua Sussberg of Kirkland & Ellis LLP on behalf of Celsius Network LLC
1 <sup>3</sup>	07/13/2022	Voluntary Petition for Non-Individuals Filing for Bankruptcy filed by Joshua Sussberg on behalf of Celsius Network Limited
2	07/13/2022	Debtors’ Motion Seeking Entry of an Order (I) Directing Joint Administration of the Chapter 11 Cases and (II) Granting Related Relief
3 <sup>4</sup>	07/14/2022	Amended Voluntary Petition for Non-Individuals Filing for Bankruptcy filed by Joshua Sussberg on behalf of Celsius Network Limited

<sup>2</sup> Docket references refer to *In re: Celsius Network LLC*, Case No. 1:22-bk-10964 (MG) (Bankr. S.D.N.Y. July 13, 2022), unless otherwise indicated.

<sup>3</sup> *In re: Celsius Network Limited*, Case No. 1:22-bk-10966 (MG) (Bankr. S.D.N.Y. July 13, 2022).

<sup>4</sup> *In re: Celsius Network Limited*, Case No. 1:22-bk-10966 (MG) (Bankr. S.D.N.Y. July 13, 2022).

<b>Dkt. No.<sup>2</sup></b>	<b>Filing Date</b>	<b>Document Title</b>
4 <sup>5</sup>	07/14/2022	Amended Voluntary Petition for Non-Individuals Filing for Bankruptcy filed by Joshua Sussberg on behalf of Celsius Network Limited
7	07/14/2022	Debtors' Amended Motion Seeking Entry of an Order (I) Directing Joint Administration of the Chapter 11 Cases and (II) Granting Related Relief
22	07/14/2022	Declaration of Robert Campagna, Managing Director of Alvarez & Marsal North America, LLC, in Support of Chapter 11 Petitions and First Day Motions filed by Joshua Sussberg on behalf of Celsius Network LLC
23	07/14/2022	Declaration of Alex Mashinsky, Chief Executive Officer of Celsius Network LLC, in Support of Chapter 11 Petitions and First Day Motions filed by Joshua Sussberg on behalf of Celsius Network LLC
77	07/21/2022	Transcript regarding Hearing Held on 07/18/2022 at 2:00 PM RE: First Day Hearings; Debtors' Amended Motion Seeking Entry of an Order (I) Directing Joint Administration of the Chapter 11 Cases and (II) Granting Related Relief.; Etc.
182	07/22/2022	Letter to the Honorable Martin Glenn Re: Help Global Depositors, Not Help Celsius Commit More Fraud Under Bankruptcy Protection filed by Alexander Peter Simmons, <i>pro se</i>
210	07/26/2022	Letter to the Honorable Martin Glenn Re: Celsius Stolen, Fraud and Would Much Rather See Original Crypto Asset Deposits Reimbursebed [sic] filed by Thomas Guzman, <i>pro se</i>
212	07/22/2022	Letter to the Honorable Martin Glenn Re: How We Investors Were Lied to, Misled, Tricked and Defrauded, and How Mashinsky and His Friends Looted the Investors Crypto, Etc. filed by Mark Ninci, <i>pro se</i>
236	07/23/2022	Letter to the Honorable Martin Glenn Re: Celsius and Mashinsky Recklessness filed by Gabriela Gonzales, <i>pro se</i>

<sup>5</sup> In re: Celsius Network Limited, Case No. 1:22-bk-10966 (MG) (Bankr. S.D.N.Y. July 13, 2022).

<b>Dkt. No.<sup>2</sup></b>	<b>Filing Date</b>	<b>Document Title</b>
256	07/24/2022	Letter to the Honorable Martin Glenn Re: Alex Mashinsky's Interviews filed by Nicholas Race, <i>pro se</i>
491	07/28/2022	Letter to the Honorable Martin Glenn Re: Celsius Network Requesting Removal of Alex Mashinsky and Celsius Network Board of Directors, Etc. filed by Patrick Bryant, <i>pro se</i>
816	09/14/2022	Transcript regarding Hearing Held on 08/16/2022 2:04 PM RE: Motion (I) Authorizing the Debtors to (A) Continue to Operate their Cash Management System, (B) Honor Certain Prepetition Obligations Related Thereto, (C) Maintain Existing Business Forms, and (D) Continue to Perform Intercompany Transactions, (II) Granting Superpriority Administrative Expense Status to Postpetition Intercompany Balances, and (III) Granting Related Relief.; Etc.
12 <sup>6</sup>	10/11/2022	Joint Stipulation and Agreed Scheduling Order by and Among the Debtors, the Committee, and the Ad Hoc Groups with Respect to the Custody and Withhold Issues
1019	10/11/2022	Debtors' Motion for Entry of an Order (I) Setting Bar Dates for Submitting Proofs of Claim, (II) Approving Procedures for Submitting Proofs of Claim, (III) Approving Notice Thereof, and (IV) Granting Related Relief
1184	10/25/2022	Series B Preferred Holders' Limited Objection to Debtors' Motion for Entry of an Order Setting Bar Dates for Submitting Proofs of Claim and Granting Related Relief
1327	11/11/2022	Declaration of Oren Blonstein, Head of Innovation and Chief Compliance Officer of the Debtors, in Support of the Debtors' Motion Regarding Ownership of Earn Assets and the Sale of Stablecoin
1331	11/11/2022	Debtors' Reply to Series B Preferred Holders' Limited Objection to Debtors' Motion for Entry of an Order Setting Bar Dates for Submitting Proofs of Claim and Granting Related Relief

<sup>6</sup> *Ad Hoc Group of Custodial Account Holders v. Celsius Network LLC, et al.*, Adversary Case No. 22-01142 (MG) (Bankr. S.D.N.Y. Aug. 31, 2022).

<b>Dkt. No.<sup>2</sup></b>	<b>Filing Date</b>	<b>Document Title</b>
1332	11/11/2022	The Official Committee of Unsecured Creditors' Statement (A) In Support of the Debtors' Motion for Entry of an Order (I) Setting Bar Dates for Submitting Proofs of Claim, (II) Approving Procedures for Submitting Proofs of Claim, (III) Approving Notice Thereof, and (IV) Granting Related Relief and (B) In Response to the Preferred Equity Objection
1338	11/14/2022	Debtors' Motion Seeking Entry of an Order (I) Setting a Briefing Schedule and (II) Granting Related Relief
1339	11/14/2022	Revised Proposed Order (I) Setting Bar Dates for Submitting Proofs of Claim, (II) Approving Procedures for Submitting Proofs of Claim, (III) Approving Notice Thereof, and (IV) Granting Related Relief filed by Joshua Sussberg on behalf of Celsius Network LLC
1368	11/16/2022	Order (I) Setting Bar Dates for Submitting Proofs of Claim, (II) Approving Procedures for Submitting Proofs of Claim, (III) Approving Notice Thereof, and (IV) Granting Related Relief
1386	11/17/2022	Transcript regarding Hearing Held on 11/15/2022 At 2:00 PM RE: Debtor's Motion for Entry of an Order (I) Setting Bar Dates for Submitting Proofs of Claim, (II) Approving Procedures for Submitting Proofs of Claim, (III) Approving Notice Thereof, and (IV) Granting Related Relief.; Etc.
1435	11/22/2022	Affidavit of Publication Re: Bar Date Order filed by Joshua Sussberg on behalf of Celsius Network LLC
1660	12/09/2022	Affidavit of Service of, <i>inter alia</i> , Notice of Deadline Requiring Submission of Proofs of Claim on or Before January 3, 2023, and Related Procedures for Submitting Proofs of Claim in the Above-Captioned Chapter 11 Cases filed by Stretto, Inc.
1747	12/19/2022	Order (I) Setting a Briefing Schedule and (II) Granting Related Relief

<b>Dkt. No.<sup>2</sup></b>	<b>Filing Date</b>	<b>Document Title</b>
1772	12/20/2022	Supplemental Affidavit of, <i>inter alia</i> , Notice of Deadline Requiring Submission of Proofs of Claim on or Before January 3, 2023, and Related Procedures for Submitting Proofs of Claim in the Above-Captioned Chapter 11 Cases filed by Stretto, Inc.
1778	12/21/2022	Supplemental Affidavit of Service of, <i>inter alia</i> , Notice of Deadline Requiring Submission of Proofs of Claim on or Before January 3, 2023, and Related Procedures for Submitting Proofs of Claim in the Above-Captioned Chapter 11 Cases filed by Stretto, Inc.
1803	12/30/2022	Debtors' Motion Seeking Entry of an Order (I) Extending the Bar Dates for Submitting Proofs of Claim, (II) Approving Notice Thereof, and (III) Granting Related Relief
1804	12/30/2022	Motion to Schedule an Expedited Hearing and Shorten the Notice Period on the Debtors' Motion Seeking Entry of an Order (I) Extending the General Claims Bar Date for Submitting Proofs of Claim, (II) Approving Notice Thereof, and (III) Granting Related Relief filed by Joshua Sussberg on behalf of Celsius Network LLC
1846	01/10/2023	Order (I) Extending the Bar Dates for Submitting Proofs of Claim, (II) Approving Notice Thereof, and (III) Granting Related Relief
1864	01/14/2023	Supplemental Affidavit of Service of, <i>inter alia</i> , Notice of Deadline Requiring Submission of Proofs of Claim on or Before January 3, 2023, and Related Procedures for Submitting Proofs of Claim in the Above-Captioned Chapter 11 Cases filed by Stretto, Inc.
1938	01/25/2023	Supplemental Affidavit of Service of, <i>inter alia</i> , (1) Notice of Deadline Requiring Submission of Proofs of Claim on or Before January 3, 2023, and Related Procedures for Submitting Proofs of Claim in the Above-Captioned Chapter 11 Cases; and (2) Order (I) Extending the Bar Dates for Submitting Proofs of Claim, (II) Approving Notice Thereof, and (III) Granting Related Relief [Dkt. No. 1846] filed by Stretto Inc.
1956	01/31/2023	Final Report of Shoba Pillay, Examiner

<b>Dkt. No.<sup>2</sup></b>	<b>Filing Date</b>	<b>Document Title</b>
2016	02/09/2023	Transcript regarding Hearing Held on 2/6/2023 at 1:59pm RE: Debtors' Motion Seeking Entry of an Order (I) Setting a Briefing Schedule and (II) Granting Related Relief
2105	02/19/2023	Debtors' Objection to Proof of Claim No. 24604 of Immanuel Herrmann
2106	02/19/2023	Debtors' Objection to Proof of Claim No. 23959 of Rebecca Gallagher
2107	02/20/2023	Debtors' Objection to Proof of Claim No. 24480 of Daniel A. Frishberg
2110	02/20/2023	Supplemental Affidavit of Service of, <i>inter alia</i> , (1) Notice of Deadline Requiring Submission of Proofs of Claim on or Before January 3, 2023, and Related Procedures for Submitting Proofs of Claim in the Above-Captioned Chapter 11 Cases; and (2) Order (I) Extending the Bar Dates for Submitting Proofs of Claim, (II) Approving Notice Thereof, and (III) Granting Related Relief [Dkt. No. 1846] filed by Stretto Inc.
2182	03/06/2023	Supplemental Affidavit of Service of, <i>inter alia</i> , Notice of Deadline Requiring Submission of Proofs of Claim on or Before January 3, 2023, and Related Procedures for Submitting Proofs of Claim in the Above-Captioned Chapter 11 Cases filed by Stretto, Inc.
2183	03/06/2023	Supplemental Affidavit of Service of, <i>inter alia</i> , Notice of Deadline Requiring Submission of Proofs of Claim on or Before January 3, 2023, and Related Procedures for Submitting Proofs of Claim in the Above-Captioned Chapter 11 Cases filed by Stretto, Inc.
2201	03/08/2023	Joint Stipulation and Agreed Order Between the Official Committee of Unsecured Creditors and the Debtors with Respect to Certain Claims and Causes of Action Belonging to the Debtors' Estates

<b>Dkt. No.<sup>2</sup></b>	<b>Filing Date</b>	<b>Document Title</b>
2205	03/09/2023	Memorandum Opinion Regarding Which Debtor Entities Have Liability for Customer Claims Under the Terms of Use
2265	03/17/2023	Order Regarding Which Debtor Entities Have Liability for Customer Contract Claims Under the Terms of Use
2308	03/24/2023	Transcript regarding Hearing Held on 3/21/2023 at 10:03am RE: Debtor's Motion Seeking Entry of an Order (I) Authorizing the Debtors to Enter into Witness Cooperation Agreements with Certain Current and Former Employees, (II) Authorizing Reimbursement of Past and Future Out-Of-Pocket Expenses of Cooperating Witnesses, Including Attorneys Fees, and (III) Granting Related Relief; et al.
2310	03/24/2023	Notice of Amended Bar Date for Submission of Proofs of Claim filed by Joshua Sussberg on behalf of Celsius Network LLC
2349	03/30/2023	Revised Proposed Complaint of the Official Committee of Unsecured Creditors
2351	03/31/2023	Affidavit of Service of, <i>inter alia</i> , Notice of Amended Bar Date for Submission of Proofs of Claim [Dkt. No. 2310] filed by Stretto Inc.
2352	03/31/2023	Supplemental Affidavit of Service of, <i>inter alia</i> , Notice of Deadline Requiring Submission of Proofs of Claim on or Before January 23, 2023, and Related Procedures for Submitting Proofs of Claim in the Above-Captioned Chapter 11 Cases filed by Stretto Inc.
2353	03/31/2023	Supplemental Affidavit of Service of, <i>inter alia</i> , Notice of Deadline Requiring Submission of Proofs of Claim on or Before January 23, 2023, and Related Procedures for Submitting Proofs of Claim in the Above-Captioned Chapter 11 Cases filed by Stretto Inc.



<b>Dkt. No.<sup>2</sup></b>	<b>Filing Date</b>	<b>Document Title</b>
2389	04/07/2023	Supplemental Affidavit of, <i>inter alia</i> , Service of (1) Order (I) Extending the Bar Dates for Submitting Proofs of Claim, (II) Approving Notice Thereof, and (III) Granting Related Relief [Dkt. No. 1846]; and (2) Notice of Deadline Requiring Submission of Proofs of Claim on or Before January 3, 2023, and Related Procedures for Submitting Proofs of Claim in the Above-Captioned Chapter 11 Cases filed by Stretto Inc.
2396	04/10/2023	The Official Committee of Unsecured Creditors' Motion for Entry of an Order (A) Shortening Notice for its Motion (I) for Authority to File a Class Claim Asserting Non-Contract Claims on Behalf of Account Holders or (II) to Appoint a Third-Party Fiduciary to Assert a Class Claim on Behalf of Account Holders or (B) Alternatively, Extending the Amended Bar Date
2399	04/10/2023	Motion of the Official Committee of Unsecured Creditors (I) for Authority to File a Class Claim Asserting Non-Contract Claims on Behalf of Account Holders or (II) to Appoint a Third-Party Fiduciary to Assert a Class Claim on Behalf of Account Holders
-	-	Document with Bates Number CEL-UCC-00192903, as referenced in Motion of the Official Committee of Unsecured Creditors (I) for Authority to File a Class Claim Asserting Non-Contract Claims on Behalf of Account Holders or (II) to Appoint a Third-Party Fiduciary to Assert a Class Claim on Behalf of Account Holders [Dkt. No. 2399]. Not in the possession of the Series B Preferred Holders.
2400	04/11/2023	Order Granting the Official Committee of Unsecured Creditors' Motion for Entry of an Order (A) Shortening Notice for its Motion (I) for Authority to File a Class Claim Asserting Non-Contract Claims on Behalf of Account Holders or (II) to Appoint a Third-Party Fiduciary to Assert a Class Claim on Behalf of Account Holders or (B) Alternatively, Extending the Amended Bar Date
2407	04/11/2023	Supplemental Affidavit of Service of, <i>inter alia</i> , Notice of Deadline Requiring Submission of Proofs of Claim on or Before January 3, 2023, and Related Procedures for Submitting Proofs of Claim in the Above-Captioned Chapter 11 Cases filed by Stretto, Inc.

Dkt. No. <sup>2</sup>	Filing Date	Document Title
2432	04/14/2023	Proposed Securities Litigation Lead Plaintiffs' Statement and Reservation of Rights with Respect to Motion of the Official Committee of Unsecured Creditors (I) for Authority to File a Class Claim Asserting Non-Contract Claims on Behalf of Account Holders or (II) to Appoint a Third-Party Fiduciary to Assert a Class Claim on Behalf of Account Holders
2467	04/14/2023	Series B Preferred Holders' Objection to the Motion of the Official Committee of Unsecured Creditors (I) for Authority to File a Class Claim Asserting Non-Contract Claims on Behalf of Account Holders or (II) to Appoint a Third-Party Fiduciary to Assert a Class Claim on Behalf of Account Holders
2473	04/15/2023	Limited Objection to the Committee's Motion to Establish Procedures to Estimate the Intercompany Claim Between Celsius Network LLC and Celsius Network Limited filed by Nelly Almeida of Milbank LLP on behalf of the Series B Preferred Holders
2474	04/16/2023	Response to the Motion of the Official Committee of Unsecured Creditors (I) for Authority to File a Class Claim Asserting Non-Contract Claims on Behalf of Account Holders or (II) to Appoint a Third-Party Fiduciary to Assert a Class Claim on Behalf of Account Holders filed by Arie Peled of Venable LLP on behalf of Ignat Tuganov
2475	04/17/2023	The Official Committee of Unsecured Creditors' Omnibus Reply in Support of the Motion (I) for Authority to File a Class Claim Asserting Non-Contract Claims on Behalf of Account Holders or (II) to Appoint a Third-Party Fiduciary to Assert a Class Claim on Behalf of Account Holders
2476	04/14/2023	Response to the Motion of the Official Committee of Unsecured Creditors (I) for Authority to File a Class Claim Asserting Non-Contract Claims on Behalf of Account Holders or (II) to Appoint a Third-Party Fiduciary to Assert a Class Claim on Behalf of Account Holders filed by Immanuel Herrmann, <i>pro se</i> , and Daniel Frishberg, <i>pro se</i>
2482	04/17/2023	Joinder to Ignat Tuganov's Response—and Rebuttal to the Series B Preferred Holders' Objection—to the Motion of the Official Committee of Unsecured Creditors (I) for Authority to File a Class Claim Asserting Non-Contract Claims on Behalf of Account Holders of (II) to Appoint a Third-Party Fiduciary to Assert a Class Claim on Behalf of Account Holders filed by Immanuel Herrmann, <i>pro se</i> , Daniel Frishberg, <i>pro se</i> , and Rebecca Gallagher, <i>pro se</i>

<b>Dkt. No.<sup>2</sup></b>	<b>Filing Date</b>	<b>Document Title</b>
2484	04/17/2023	Statement of the United States Trustee in Response to the Motion of the Official Committee of Unsecured Creditors (I) for Authority to File a Class Claim Asserting Non-Contract Claims on Behalf of Account Holders or (II) to Appoint a Third-Party Fiduciary to Assert a Class Claim on Behalf of Account Holders
2496	04/18/2023	Order Granting the Motion of the Official Committee of Unsecured Creditors (I) for Authority to File a Class Claim Asserting Non-Contract Claims on Behalf of Account Holders or (II) to Appoint a Third-Party Fiduciary to Assert Non-Contract Claims on Behalf of Account Holders
2506	04/19/2023	Supplemental Affidavit of Service of, <i>inter alia</i> , Notice of Deadline Requiring Submission of Proofs of Claim on or Before January 3, 2023, and Related Procedures for Submitting Proofs of Claim in the Above-Captioned Chapter 11 Cases filed by Stretto, Inc.
2516	04/21/2023	Notice of Extension of Bar Date for Account Holders to Submit Proofs of Claim filed by Joshua Sussberg on behalf of Celsius Network LLC
2521	04/24/2023	Transcript regarding Hearing Held on 4/18/2023 at 10:02am RE: Debtors' Application for Entry of an Order (I) Authorizing the Retention and Employment of Stout Risius Ross, LLC as Valuation Advisor, Effective as of February 21, 2023, and (II) Granting Related Relief; et al.
2572	05/02/2023	Supplemental Affidavit of Service of, <i>inter alia</i> , Notice of Deadline Requiring Submission of Proofs of Claim on or Before January 3, 2023, and Related Procedures for Submitting Proofs of Claim in the Above-Captioned Chapter 11 Cases filed by Stretto, Inc.
2581	05/02/2023	Supplemental Affidavit of Service of, <i>inter alia</i> , (1) Notice of Deadline Requiring Submission of Proofs of Claim on or Before January 3, 2023, and Related Procedures for Submitting Proofs of Claim in the Above-Captioned Chapter 11 Cases; and (2) Notice of Amended Bar Date for Submission of Proofs of Claim [Dkt. No. 2310] filed by Stretto, Inc.

The Series B Preferred Holders reserve all rights to designate additional items for inclusion in the record or restate or modify issues presented on appeal. For items designated, the designation includes all documents referenced with the particular document number including, without limitation, all statements, appendices, exhibits, supplements, attachments, declarations, and/or

related affidavits.

### **Statement of Issues on Appeal**

The Series B Preferred Holders respectfully state the following issues for the appeal:

- 1) The Official Committee of Unsecured Creditors (the “Committee”), pursuant to the *Motion of the Official Committee of Unsecured Creditors (I) for Authority to File a Class Claim Asserting Non-Contract Claims on Behalf of Account Holders or (II) to Appoint a Third-Party Fiduciary to Assert a Class Claim on Behalf of Account Holders* [Dkt. No. 2399] (the “Motion”), sought approval from the Bankruptcy Court to file a class proof of claim on behalf of certain unsecured creditors. Did the Bankruptcy Court err in permitting the Committee to file a class proof of claim even though the Committee cannot act on behalf of individual creditors and even though the Committee is not and cannot be a class member?
- 2) When exercising discretion to allow the filing of a class proof of claim, courts consider whether: (i) a class was certified pre-petition by a non-bankruptcy court; (ii) there has been no actual or constructive notice to the class members of the bankruptcy case and/or the bar date; and (iii) class certification will adversely affect the administration of the case (collectively, the “*Musicland Factors*”). No class was certified pre-petition by a non-bankruptcy court, the account holders had notice of the bar dates pursuant to notices approved by the Bankruptcy Court, and the numerous class-based claims, at this late stage, would interfere with the bankruptcy administration. Did the Bankruptcy Court abuse its discretion in permitting a class proof of claim, although the *Musicland Factors* weighed against permitting the class claim?
- 3) In conducting an analysis of whether to permit the filing of a class proof of claim, a court must also determine whether the proposed class proof of claim can and does satisfy the class certification requirements of Federal Rule of Civil Procedure 23 (“Rule 23”). The Committee’s Motion, however, failed to describe the scope of the class, the proposed class claims to be asserted, the Debtors against which the class claims would be asserted, or how all 600,000 account holder creditors, located worldwide, who had deposited assets at various points in time, were likely to have common issues of law and fact to predominate any claim asserted on behalf of a class. Did the Bankruptcy Court err in permitting the Committee to file a class proof of claim without requiring the Committee to submit a proposed class claim or otherwise articulate the scope of the proposed class proof of claim and where the claim cannot satisfy the Rule 23 requirements?

### **Certificate Regarding Transcripts**

The transcripts of the oral arguments before the Bankruptcy Court are included in the above designations of the appeal record. Therefore, pursuant to Rule 8009(b)(1)(B) of the

Federal Rules of Bankruptcy Procedure, Appellants hereby file this certificate stating that it is not ordering any transcripts.

*[Remainder of page intentionally left blank]*

Dated: New York, New York  
May 16, 2023

/s/ Dennis F. Dunne

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- and -

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